



Note
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0613/P8

EVM:sac:jm

JK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RME

INSERT

12/20/13

LPS: handwritten changes are always "a lien" - two words. There are no aliens (one word) in this draft.

Today

- re jar

1 **AN ACT to renumber 71.935 (2); to renumber and amend 66.0809 (3) and**
2 **66.0809 (5) (b) 1.; to consolidate, renumber and amend 66.0809 (5) (b)**
3 **(intro.) and 2.; to amend 66.0809 (5) (c) and 66.0809 (5) (d); and to create**
4 **66.0809 (3m), 66.0809 (5) (bm), 66.0809 (7), 66.0809 (8), 66.0809 (9), 66.0809**
5 **(10), 71.935 (2) (b) and 196.37 (5) of the statutes; relating to: collection of**
6 **certain utility arrearages by a municipal utility and the provision of municipal**
7 **utility service to tenants.**

Analysis by the Legislative Reference Bureau

Under current law, if a municipal utility provides utility service to a property and payment for the service is in arrears, the utility ~~may insert~~ *has* a lien on the property and have arrearages inserted as a tax on the property if the following procedure is followed. On October 15, the utility or county treasurer must provide the owner or occupant of the property with a written notice of payment due. The notice must specify the amount of the arrearage and any penalty and must state that: 1) if payment is not received by November 1, an additional penalty will be assessed; and 2) if payment is not received by November 15, the arrearage amount and any penalties will become a lien on the property that will be collected as a tax on the property. On November 16, the utility or treasurer must certify and file with the county clerk a list of all properties for which a notice of arrears was given and for

may

the municipality has a lien on the property of a tenant who is responsible for the arrearage.

which arrears remain unpaid. The delinquent amount then becomes a lien upon the property and the clerk must insert the delinquent amount and any penalties as a tax against the property.

then then

This bill provides that, if the municipal utility uses the arrearage collection procedure for a rental dwelling unit and provides a notice of arrearage to the owner ~~and the arrearage is not paid by November 15~~, the utility or treasurer must certify and file with the clerk of courts a list of tenants responsible for arrears and penalties ~~and the clerk of courts must indicate in the lien docket each listed tenant as a person who has not satisfied a municipal utility lien.~~ ~~The clerk of courts must indicate in the lien docket that the tenant has satisfied the lien if the municipality receives payments from the tenant in an amount equal to the amount paid by the owner to satisfy the arrearage and the municipality provides a statement to that effect to the clerk of courts.~~

those these

Also under current law, if a municipal utility provides electric or water service to a rental dwelling unit and the owner of the rental property provides the utility with certain information, including the name and address of the tenant who is responsible for paying for utility service, the utility may use the arrearage collection procedure described above only if the utility follows certain additional procedures for notifying both the owner and the tenant about any payments that are past due.

This bill allows an owner of a rental unit to request that a municipal utility terminate electric service to a rental dwelling unit if the tenant's utility charges are past due and the tenant has received certain notices.

This bill also permits or requires certain actions of a municipal utility, including the following:

1) A municipal utility must refuse to establish electric utility service at a rental dwelling unit rented by a tenant if the tenant has outstanding past-due charges for utility service from the municipal utility, and must inform the owner of the rental unit of the past-due charges upon the owner's request.

2) A municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement.

3) A municipal utility may adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer is an owner or a lessee of the property receiving utility service ~~and whether the property is subject to a municipal utility lien.~~

Under current law, if any person owes a debt of at least \$20 to a county or municipality, and if the debt has been reduced to a judgment or the county or municipality has provided the debtor reasonable notice and an opportunity to be heard with regard to the debt, the county or municipality may certify the debt to the Department of Revenue (DOR) so that DOR may collect the debt by subtracting the debt amount from any tax refund owed to the debtor. Under current law, for purposes of certifying debt to DOR, a "municipality" means any city, village, or town, and includes any entity providing consolidated services among cities, villages, and towns.

Under this bill, for purposes of collecting debts from tax refunds, a "municipality" includes a municipal utility. Under the bill, if a tenant owes a debt

where the possibility exists for unpaid bills of a tenant to become a lien

Also under this bill,

if the owner pays the arrearage, the municipality must transfer the lien to the owner.

to a landlord for delinquent utility charges owed by the tenant and paid by the landlord, the landlord may request that the municipal utility certify the debt to DOR. The municipal utility must certify the debt to DOR so that DOR may collect the debt by ~~subtracting the debt amount from any tax refund owed to the tenant.~~

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 66.0809 (3) of the statutes is renumbered 66.0809 (3) (a) and
2 amended to read:

3 66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each year
4 notice shall be given to the owner or occupant of ~~all~~ the lots or parcels of real estate
5 to which utility service has been furnished prior to October 1 by a public utility
6 operated by a town, city, or village and payment for which is owing and in arrears at
7 the time of giving the notice. The department in charge of the utility shall furnish
8 the treasurer with a list of the lots or parcels of real estate for which utility service
9 charges are in arrears, and the notice shall be given by the treasurer, unless the
10 governing body of the city, village, or town authorizes notice to be given directly by
11 the department. The notice shall be in writing and shall state the amount of arrears,
12 including any penalty assessed pursuant to the rules of the utility; that unless the
13 amount is paid by November 1 a penalty of 10 percent of the amount of arrears will
14 be added; and that unless the arrears, with any added penalty, are paid by November
15 15, the arrears and penalty will be levied as a tax against the lot or parcel of real
16 estate to which utility service was furnished and for which payment is delinquent.
17 The notice may be served by delivery to either the owner or occupant personally, or
18 by letter addressed to the owner or occupant at the post-office address of the lot or
19 parcel of real estate.

1 **(b)** On November 16, the officer or department issuing the notice shall certify
2 and file with the clerk a list of all lots or parcels of real estate, giving the legal
3 description, for which notice of arrears was given under par. (a) and for which arrears
4 remain unpaid, stating the amount of arrears and penalty. Each delinquent amount,
5 including the penalty, becomes a lien upon the lot or parcel of real estate to which the
6 utility service was furnished and payment for which is delinquent, and the clerk
7 shall insert the delinquent amount and penalty as a tax against the lot or parcel of
8 real estate.

9 **(c)** All proceedings in relation to the collection of general property taxes and to
10 the return and sale of property for delinquent taxes apply to the tax under par. (b)
11 if it is not paid within the time required by law for payment of taxes upon real estate.

12 **(d)** Under this subsection, if an arrearage is for utility service furnished and
13 metered by the utility directly to a manufactured home or mobile home unit in a
14 licensed manufactured and mobile home community, the notice shall be given to the
15 owner of the manufactured home or mobile home unit and the delinquent amount
16 becomes a lien on the manufactured home or mobile home unit rather than a lien on
17 the parcel of real estate on which the manufactured home or mobile home unit is
18 located. A lien on a manufactured home or mobile home unit may be enforced using
19 the procedures under s. 779.48 (2).

20 **(e)** This subsection does not apply to arrearages collected using the procedure
21 under s. 66.0627.

22 **(f)** In this subsection, “metered” means the use of any method to ascertain the
23 amount of service used or the use of a flat rate billing method.

24 **SECTION 2.** 66.0809 (3m) of the statutes is created to read:

municipality
The municipality has a lien upon the property of each tenant listed
Under this paragraph is the amount of the arrears for which the tenant is responsible.

1 66.0809 (3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is
2 given and the arrears, with any added penalty, are not paid by November 15, the
3 officer or department shall certify and file with the clerk of courts a list of tenants
4 of rental dwelling units responsible for arrears and penalties that become a lien
5 under sub. (3) (b). The clerk of courts shall indicate in the lien docket each tenant
6 as a person who has not satisfied a lien under sub. (3) (b).

7 (b) If par. (a) applies, the municipality shall accept payment from the tenant
8 responsible for the arrears and penalties whether or not ^{and} the owner of the rental
9 dwelling unit has paid the municipality the amount provided in the notice of arrears
10 given under sub. (3) (a) or the amount placed as tax against the real estate under sub.
11 (3) (b). If the owner has paid the municipality, the municipality shall reimburse the
12 owner the amounts it receives from the tenant.

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under
par. (a)
to*

13 (c) The clerk of courts shall indicate in the lien docket that the tenant has
14 satisfied the lien if the tenant has paid the municipality under par. (b) an amount
15 equal to the amount provided in the notice of arrears given under sub. (3), in which
16 case the municipality shall provide certification to the clerk of courts that the tenant
17 has satisfied the lien.

18 SECTION 3. 66.0809 (5) (b) (intro.) and 2. of the statutes are consolidated,
19 renumbered 66.0809 (5) (b) and amended to read:

20 66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use
21 sub. (3) to collect arrearages incurred after the owner of a rental dwelling unit has
22 provided the utility with written notice under par. (a) ~~only if the municipality~~
23 ~~complies with at least one of the following:~~ ~~2. In order to comply with this~~
24 ~~subdivision, if a customer who is a tenant has charges for water or electric service~~
25 ~~provided by the utility that are past due, the municipal public utility shall serve~~

1 serves notice of the past-due charges on the owner of the rental dwelling unit within
2 14 days of the date on which the tenant's charges became past due. The municipal
3 public utility shall serve notice in the manner provided in s. 801.14 (2).

4 **SECTION 4.** 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and
5 amended to read:

6 66.0809 (5) (am) ~~In order to comply with this subdivision, a~~ A municipal public
7 utility shall send bills for water or electric service to a customer who is a tenant in
8 the tenant's own name. ~~Each time that a municipal public utility notifies a customer~~
9 ~~who is a tenant that charges for water or electric service provided by the utility to~~
10 ~~the customer are past due for more than one billing cycle, the utility shall also serve~~
11 ~~a copy of the notice on the owner of the rental dwelling unit in the manner provided~~
12 ~~in s. 801.14 (2).~~ If a customer who is a tenant vacates his or her rental dwelling unit,
13 and the owner of the rental dwelling unit provides the municipal public utility, no
14 later than 21 days after the date on which the tenant vacates the rental dwelling
15 unit, with a written notice that contains a forwarding address for the tenant and the
16 date that the tenant vacated the rental dwelling unit, the utility shall continue to
17 send past-due notices to the customer at his or her forwarding address until the
18 past-due charges are paid or until notice has been provided under sub. (3). (a)

19 **SECTION 5.** 66.0809 (5) (bm) of the statutes is created to read:

20 66.0809 (5) (bm) 1. No earlier than 14 days after receiving a notice under sub.
21 (5) (b) of a tenant's past-due charges for electric service, the owner of a rental unit
22 may request that the municipal public utility terminate electric service to the rental
23 dwelling unit.

24 2. Upon receipt of a request under subd. 1., the municipal public utility shall
25 serve notice on the tenant that unless all past-due charges are paid within 10 days,

1 electric service to the rental dwelling unit will be terminated. The municipal public
2 utility shall serve notice in the manner provided in s. 801.14 (2).

3 3. Except as provided under rules of the public service commission prohibiting
4 disconnections during certain periods, ^{and subject to the procedural requirements under those} unless all past-due charges are paid, the ^{rules}
5 municipal utility shall terminate electric service to the rental dwelling unit within
6 14 days after serving the notice under subd. 2.

7 **SECTION 6.** 66.0809 (5) (c) of the statutes is amended to read:

8 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
9 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
10 notice by U.S. mail.

11 **SECTION 7.** 66.0809 (5) (d) of the statutes is amended to read:

12 66.0809 (5) (d) If this subsection applies and a municipal public utility is
13 permitted to collect arrearages under sub. (3), the municipal public utility shall
14 provide all notices under sub. (3) to the tenant and to the owner of the property or
15 a person designated by the owner.

16 **SECTION 8.** 66.0809 (7) of the statutes is created to read:

17 66.0809 (7) A municipal utility may require a customer or prospective customer
18 to submit an application for water or electric service.

19 **SECTION 9.** 66.0809 (8) of the statutes is created to read:

20 66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental
21 dwelling unit, upon the owner's request, whether a new tenant has outstanding
22 past-due charges for utility service to that municipal public utility in that tenant's
23 name at a different address.

1 (b) A municipal public utility shall refuse to establish electric utility service to
2 a rental dwelling unit leased by a tenant unless any outstanding past-due charges
3 for utility service in the tenant's name to that municipal public utility are paid.

4 **SECTION 10.** 66.0809 (9) of the statutes is created to read:

5 66.0809 (9) A municipal utility is not required to offer a customer who is a
6 tenant at a rental dwelling unit a deferred payment agreement.

7 **SECTION 11.** 66.0809 (10) of the statutes is created to read:

8 66.0809 (10) A municipal utility may adopt application, deposit, disconnection,
9 or collection rules and practices that distinguish between customers based upon
10 whether the customer owns or leases the property that is receiving utility service and

11 subject to a lien under sub. (3) where the possibility exists for any unpaid bills of
a tenant to become a lien on the property that
is receiving utility service

12 **SECTION 12.** 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

13 **SECTION 13.** 71.935 (2) (b) of the statutes is created to read:

14 71.935 (2) (b) If a tenant owes a debt to a landlord, as described under s. 66.0809
15 (5), for delinquent utility charges owed by the tenant and paid by the landlord, the
16 landlord may make a request to the municipal public utility to certify the debt to the
17 department. The municipal public utility shall certify the debt to the department as
18 provided in par. (a) so that the department may set off the debt against any refund
19 owed to the tenant. Upon request, the landlord shall provide the municipal public
20 utility with the information necessary to certify the debt and to notify the tenant as
21 provided under par. (a).

22 **SECTION 14.** 196.37 (5) of the statutes is created to read:

23 196.37 (5) It is not unreasonable or unjustly discriminatory for a municipal
24 public utility to adopt application, deposit, disconnection, or collection rules and
25 practices that distinguish between customers based upon whether the customer

Insert JK
8-21

owns or leases the property that is receiving utility service and whether the property

is subject to lien under s. 66.809 (3) where the possibility exists for any unpaid bills of a tenant to become a lien on the property that is receiving utility service

SECTION 15. Initial applicability.

(1) The treatment of section 66.0809 (3) and (5) (b) (intro.), 1., and 2. of the statutes first applies to arrearages incurred on the effective date of this subsection.

(2) The treatment of section 66.0809 (3m) of the statutes first applies to a notice of arrears given on the effective date of this subsection.

(3) The treatment of section 66.0809 (8) (b) of the statutes first applies to a request for utility service made on the effective date of this subsection.

SECTION 16. Effective date.

(1) This act takes effect on the 1st day of the 6th month beginning after publication.

(END)

DNote

Insert Analysis JK

Under the bill, if a municipality or owner of a rental dwelling unit has a lien against a tenant for unpaid utility services, the municipality or property owner may certify that debt to DOR so that DOR may collect the debt by subtracting the lien amount from any tax refund owed to the tenant.

Insert 8 - 21 JK

1 **SECTION 1.** 71.93 (3) (a) 6. of the statutes, as created by 2013 Wisconsin Act 20,
2 is amended to read:

3 71.93 (3) (a) 6. Debt certified under s. 71.935 (2) (a) and then s. 71.935 (2) (b).

4 **SECTION 2.** 71.935 (1) (a) of the statutes is renumbered 71.935 (1) (a) (intro.)
5 and amended to read:

6 71.935 (1) (a) (intro.) “Debt” means ~~a~~ the following:

7 1. A parking citation of at least \$20 that is unpaid and for which there has been
8 no court appearance by the date specified in the citation or, if no date is specified, that
9 is unpaid for at least 28 days; an unpaid fine, fee, restitution or forfeiture of at least
10 \$20; and any other debt that is at least \$20, including debt related to property taxes,
11 if the debt has been reduced to a judgment or the municipality or county to which the
12 debt is owed has provided the debtor reasonable notice and an opportunity to be
13 heard with regard to the debt.

14 **SECTION 3.** 71.935 (1) (a) 2. of the statutes is created to read:

15 71.935 (1) (a) 2. A lien under s. 66.0809 (3m).

16 **SECTION 4.** 71.935 (1) (b) of the statutes is amended to read:

17 71.935 (1) (b) “Debtor” means a person who owes a debt to a municipality or
18 county or to the owner of a rental dwelling unit for arrears, as described under s.
19 66.0809 (3m).

20 **SECTION 5.** 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

1 **SECTION 6.** 71.935 (2) (b) of the statutes is created to read:

2 71.935 (2) (b) If a municipality or property owner has a lien against a tenant
3 under s. 66.0809 (3m), the municipality or property owner may certify that debt to
4 the department so that the department may set off the debt against any refund owed
5 to the tenant. The municipality shall certify the debt to the department as provided
6 in par. (a). The property owner shall certify the debt to the department in the manner
7 prescribed by the department.

8 **SECTION 7.** 71.935 (3) (a) of the statutes is amended to read:

9 71.935 (3) (a) If the debt remains uncollected and, in the case of a parking
10 citation, if the debtor has not contested the citation within 20 days after the notice
11 under sub. (2), the department shall set off the debt against any refund that is owed
12 to the debtor after the setoff under s. 71.93. Any legal action contesting a setoff shall
13 be brought against the municipality ~~or~~, county, or property owner that certified the
14 debt under sub. (2).

15 **SECTION 8.** 71.935 (3) (b) of the statutes is amended to read:

16 71.935 (3) (b) The department shall provide the information obtained under
17 sub. (2) to the department of administration. Before reducing any disbursement as
18 provided under this paragraph, the department of administration shall contact the
19 department to verify whether a certified debt that is the basis of the reduction has
20 been collected by other means and, in the case of a parking citation, whether the
21 debtor has contested the citation within 20 days after the notice under sub. (2). If
22 the certified debt remains uncollected and, in the case of a parking citation, the
23 citation has not been contested within 20 days after the notice under sub. (2), the
24 department of administration shall, after any reduction under s. 71.93, reduce the
25 disbursement by the amount of the debtor's certified debt under sub. (2), notify the

1 department of such reduction and disbursement, and remit the amount of the
2 reduction to the department in the manner prescribed by the department. If more
3 than one debt certified under sub. (2) exists for any debtor, the disbursement shall
4 be reduced first by the earliest debt certified. Any legal action contesting a reduction
5 under this paragraph shall be brought against the municipality ~~or~~, county, or
6 property owner that certified the debt under sub. (2).

7 **SECTION 9.** 71.935 (4) of the statutes is amended to read:

8 71.935 (4) Within 30 days after the end of each calendar quarter, the
9 department shall settle with each municipality ~~and~~, county, and property owner for
10 the amounts set off or reduced against certified debts for the municipality ~~or~~, county,
11 or property owner during that calendar quarter.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0613/P9dn

EVM:sac:jm

- date -

ATTN: Rob Kovach

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

* 1. Would you like s. 66.0809 (3m) (b) to read more generically, e.g., "if a person has paid the municipality the amount ... the municipality shall transfer the lien ... to that person?"

2. Should s. 66.0809 (3m) (b) have an option of cancelling the lien?

3. This draft does not contain treatment of s. 62.69. Section 66.0809 is a relatively generic provision governing municipal public utilities. Generally, its provisions would apply to a public utility of a 1st class city, including, presumably, the Milwaukee water system under s. 62.69. However, since the Milwaukee water system has specific rules under s. 62.69, generally, where the rules conflict, the more specific statute governs.

That said, if you want complete conformity between the Milwaukee water system and municipal public utilities, repealing s. 62.69 should have this effect. Similarly, simply repealing the specific arrearage collection procedure in s. 62.69 (2) (f) should make the collection procedure in s. 66.0809 applicable.

* How much of s. 66.0809 do you want to apply to the Milwaukee water system? Just the changes in s. 66.0809 (3m)? All of the changes to s. 66.0809 made in this draft? Are there any provisions of existing s. 62.69 that do not correspond to provisions treated in this draft that you would like repealed or amended? For example, s. 62.69 (2) (e) does not conform to s. 66.0809 (3) (a), but 66.0809 (3) (a) is not significantly amended in this draft.

Please let me know if you would like any changes made to the attached draft or if you have any questions.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0613/P9dn
EVM:sac:jm

December 20, 2013

ATTN: Rob Kovach

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. Would you like s. 66.0809 (3m) (b) to read more generically, e.g., "if a person has paid the municipality the amount . . . the municipality shall transfer the lien . . . to that person?"
2. Should s. 66.0809 (3m) (b) have an option of cancelling the lien?
3. This draft does not contain treatment of s. 62.69. Section 66.0809 is a relatively generic provision governing municipal public utilities. Generally, its provisions would apply to a public utility of a 1st class city, including, presumably, the Milwaukee water system under s. 62.69. However, since the Milwaukee water system has specific rules under s. 62.69, generally, where the rules conflict, the more specific statute governs.

That said, if you want complete conformity between the Milwaukee water system and municipal public utilities, repealing s. 62.69 should have this effect. Similarly, simply repealing the specific arrearage collection procedure in s. 62.69 (2) (f) should make the collection procedure in s. 66.0809 applicable.

How much of s. 66.0809 do you want to apply to the Milwaukee water system? Just the changes in s. 66.0809 (3m)? All of the changes to s. 66.0809 made in this draft? Are there any provisions of existing s. 62.69 that do not correspond to provisions treated in this draft that you would like repealed or amended? For example, s. 62.69 (2) (e) does not conform to s. 66.0809 (3) (a), but s. 66.0809 (3) (a) is not significantly amended in this draft.

Please let me know if you would like any changes made to the attached draft or if you have any questions.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

Mueller, Eric

From: Kovach, Robert
Sent: Thursday, December 26, 2013 9:04 PM
To: Lovell, David; Mueller, Eric
Subject: FW: Draft review: LRB -0613/P9 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Can you guys look over these questions and recommendations? If they can be implemented without messing up anything else, go ahead and implement the changes.

Thanks

Rob Kovach
Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

-----Original Message-----

From: Heather Berlinski [mailto:hb@thekammergroup.com]
Sent: Thursday, December 26, 2013 4:47 PM
To: Kovach, Robert
Cc: Zachary Bloom (zbloom@meuw.org)
Subject: RE: Draft review: LRB -0613/P9 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Rob –

In reviewing and discussing P9 with our members, a few questions have come up that we wanted to touch base with you on.

rate change

1 - Section 6 references that utilities must send notice requirements by U.S. mail. Many of our customers now opt-in to electronic billing. Could we add to the language that notification can be established by sending the notification electronically to those members that opt-in to electronic billing?

no change

2 - Section 9 prohibits a utility from connecting electric service unless all past-due charges are paid. We suggest that language be added to allow service to be connected if the owner consents. This puts the decision back on the landlord over whether they believe their tenant is "credit-worthy."

pending

3 - As an alternative to using TRIP (Tax Refund Interception Program) utilities also use the State Debt Collection program to collect from delinquent accounts. The state debt collection program first tries to resolve the delinquent account without using collection procedures. If collection proceedings are started they can use wage attachment or bank levies to try and collect the debt. Can you verify with the drafters that this bill would not prohibit the ability for utilities to continue to use the State Debt Collection program? My sense is that it isn't impacted, but we'd like clarification.

Thanks for looking into these issues.

Heather Berlinski | Government Affairs Associate The Kammer Group <<http://www.thekammergroup.com/>> | 44 E. Mifflin Street, Suite 305 | Madison, WI 53703

Main: 608-512-1280 | Direct: 608-512-1283

From: Kovach, Robert [mailto:Robert.Kovach@legis.wisconsin.gov]

Sent: Friday, December 20, 2013 4:09 PM

To: Kovach, Robert; Julian, Jamie; Larson, Tom (tlarson@wra.org); Joe Murray; Heather Berlinski; Zachary Bloom (zbloom@meuw.org); Curt Witynski; lkobza@boardmanclark.com

Subject: FW: Draft review: LRB -0613/P9 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Dear Team,

I ran P7 past Leg Council and they saw some problems with the lien section. I rounded up some additional drafters and consulted with Lawrie Kobza and Tom Larson about some of the recommendations that leg council had and P9 is the product.

We also learned that Milwaukee, being a city of the 1st class, has their municipal water utility under a different section of statute. We will be creating a P10 that will cover Milwaukee and the changes will look like:

SECTION XXXX. 66.0809 (3) of the statutes is renumbered 66.0809 (3) (a) and amended to read:

66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each year notice shall be given to the owner or occupant of all the lots or parcels of real estate to which utility service has been furnished prior to October 1 by a public utility operated by a town, city, or village, including a public utility under s. 62.69, and payment for which is owing and in arrears at the time of giving the notice. The department in charge of the utility shall furnish the treasurer with a list of the lots or parcels of real estate for which utility service charges are in arrears, and the notice shall be given by the treasurer, unless the governing body of the city, village, or town authorizes notice to be given directly by the department. The notice shall be in writing and shall state the amount of arrears, including any penalty assessed pursuant to the rules of the utility; that unless the amount is paid by November 1 a penalty of 10 percent of the amount of arrears will be added; and that unless the arrears, with any added penalty, are paid by November 15, the arrears and penalty will be levied as a tax against the lot or parcel of real estate to which utility service was furnished and for which payment is delinquent.

The notice may be served by delivery to either the owner or occupant personally, or by letter addressed to the owner or occupant at the post-office address of the lot or parcel of real estate.

....

(This would replace the change to (3) (a) in the existing draft.)

SECTION XXXX. 62.69 (2) (e) to (g) of the statutes is repealed.

So there will be some new cross references but the bill function should be pretty much the same.

Let me know if you see anything in this draft that is problematic.

Merry Christmas everyone!

Rob Kovach
Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: LRB.Legal

Sent: Friday, December 20, 2013 3:58 PM

To: Sen.Lasee

Subject: Draft review: LRB -0613/P9 Topic: Allow municipal utility to use tax intercept to collect an arrearage; other provisions related to municipal utility service to tenants

Following is the PDF version of draft LRB -0613/P9 and drafter's note.

Mueller, Eric

From: Lovell, David
Sent: Friday, January 03, 2014 2:20 PM
To: Kovach, Robert; Mueller, Eric
Subject: RE: Notice to the property owner

There are plenty of precedents for it (but don't ask me to find them right now). Eric might prefer it to be a non-stat, but I think it should be an on-going requirement, if you choose to do it.

David L. Lovell, Principal Analyst
Wisconsin Legislative Council
608-266-1537

From: Kovach, Robert
Sent: Friday, January 03, 2014 2:17 PM
To: Lovell, David; Mueller, Eric
Subject: RE: Notice to the property owner

As in require the brochure by statute in the bill? Sounds weird.

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Lovell, David
Sent: Friday, January 03, 2014 2:16 PM
To: Kovach, Robert; Mueller, Eric
Subject: RE: Notice to the property owner

Rob,

When we talked, we considered directing DOR to prepare a brochure or fact sheet that landlords could give to tenants to explain this process and the possibility of a non-paying tenant becoming subject to a lien. Do you want to include that?

David

David L. Lovell, Principal Analyst
Wisconsin Legislative Council
608-266-1537

From: Kovach, Robert
Sent: Thursday, January 02, 2014 3:36 PM
To: Mueller, Eric
Cc: Lovell, David
Subject: Notice to the property owner

Dear Eric,

Somewhere in the bill, we require the property owner to notify the utility the name of the responsible party who the lien will be against if they don't satisfy the arrearage.

David and I were just discussing that the landlord should provide notice to the tenant that they will be subject to the new requirements as well.

Obviously the tenant will know they are responsible to pay their bill, but I think that before we allow the automatic mandatory filing of a lien against them, we need to have a provision that gives the tenant notice. Can you create language that would require the landlord provide notice to the tenant?

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512



P10

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERTS

1/8/14

AM
1/9

re you

1 **AN ACT** *to renumber* 71.935 (2); *to renumber and amend* 66.0809 (3), 66.0809
2 (5) (b) 1. and 71.935 (1) (a); *to consolidate, renumber and amend* 66.0809
3 (5) (b) (intro.) and 2.; *to amend* 66.0809 (5) (c), 66.0809 (5) (d), 71.93 (3) (a) 6.,
4 71.935 (1) (b), 71.935 (3) (a), 71.935 (3) (b) and 71.935 (4); and *to create* 66.0809
5 (3m), 66.0809 (5) (bm), 66.0809 (7), 66.0809 (8), 66.0809 (9), 66.0809 (10), 71.935
6 (1) (a) 2., 71.935 (2) (b) and 196.37 (5) of the statutes; **relating to:** collection of
7 certain utility arrearages by a municipal utility and the provision of municipal
8 utility service to tenants.

Analysis by the Legislative Reference Bureau

Under current law, if a municipal utility provides utility service to a property and payment for the service is in arrears, the utility has a lien on the property and may have arrearages inserted as a tax on the property if the following procedure is followed. On October 15, the utility or county treasurer must provide the owner or occupant of the property with a written notice of payment due. The notice must specify the amount of the arrearage and any penalty and must state that: 1) if payment is not received by November 1, an additional penalty will be assessed; and 2) if payment is not received by November 15, the arrearage amount and any penalties will become a lien on the property that will be collected as a tax on the

property. On November 16, the utility or treasurer must certify and file with the county clerk a list of all properties for which a notice of arrears was given and for which arrears remain unpaid. The delinquent amount then becomes a lien upon the property and the clerk must insert the delinquent amount and any penalties as a tax against the property.

This bill provides that, if the municipal utility uses the arrearage collection procedure for a rental dwelling unit and provides a notice of arrearage to the owner, the municipality has a lien on the property of a tenant who is responsible for the arrearage. The utility or treasurer must then certify and file with the clerk of courts a list of those tenants. Also under this bill, if the owner pays the arrearage, the municipality must transfer the lien to the owner.

Also under current law, if a municipal utility provides electric or water service to a rental dwelling unit and the owner of the rental property provides the utility with certain information, including the name and address of the tenant who is responsible for paying for utility service, the utility may use the arrearage collection procedure described above only if the utility follows certain additional procedures for notifying both the owner and the tenant about any payments that are past due.

This bill allows an owner of a rental unit to request that a municipal utility terminate electric service to a rental dwelling unit if the tenant's utility charges are past due and the tenant has received certain notices.

This bill also permits or requires certain actions of a municipal utility, including the following:

1) A municipal utility must refuse to establish electric utility service at a rental dwelling unit rented by a tenant if the tenant has outstanding past-due charges for utility service from the municipal utility, and must inform the owner of the rental unit of the past-due charges upon the owner's request.

2) A municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement.

3) A municipal utility may adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer is an owner or a lessee of the property receiving utility service where the possibility exists for unpaid bills of a tenant to become a lien.

Under current law, if any person owes a debt of at least \$20 to a county or municipality, and if the debt has been reduced to a judgment or the county or municipality has provided the debtor reasonable notice and an opportunity to be heard with regard to the debt, the county or municipality may certify the debt to the Department of Revenue (DOR) so that DOR may collect the debt by subtracting the debt amount from any tax refund owed to the debtor. Under current law, for purposes of certifying debt to DOR, a "municipality" means any city, village, or town, and includes any entity providing consolidated services among cities, villages, and towns.

Under the bill, if a municipality or owner of a rental dwelling unit has a lien against a tenant for unpaid utility services, the municipality or property owner may certify that debt to DOR so that DOR may collect the debt by subtracting the lien amount from any tax refund owed to the tenant.

a municipality, however, may not take a lien for unpaid utility services unless the municipality has first certified the debt to DOR for collection by other means. Under the bill, DOR may use the same methods for collecting unpaid utility services as it uses for collecting unpaid taxes.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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SECTION 1. 66.0809 (3) of the statutes is renumbered 66.0809 (3) (a) and amended to read:

66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each year notice shall be given to the owner or occupant of all the lots or parcels of real estate to which utility service has been furnished prior to October 1 by a public utility operated by a town, city, or village ^{and payment for which is owing and in arrears at} and payment for which is owing and in arrears at the time of giving the notice. The department in charge of the utility shall furnish the treasurer with a list of the lots or parcels of real estate for which utility service charges are in arrears, and the notice shall be given by the treasurer, unless the governing body of the city, village, or town authorizes notice to be given directly by the department. The notice shall be in writing and shall state the amount of arrears, including any penalty assessed pursuant to the rules of the utility; that unless the amount is paid by November 1 a penalty of 10 percent of the amount of arrears will be added; and that unless the arrears, with any added penalty, are paid by November 15, the arrears and penalty will be levied as a tax against the lot or parcel of real estate to which utility service was furnished and for which payment is delinquent. The notice may be served by delivery to either the owner or occupant personally, or by letter addressed to the owner or occupant at the post-office address of the lot or parcel of real estate.

(b) On November 16, the officer or department issuing the notice shall certify and file with the clerk a list of all lots or parcels of real estate, giving the legal

SECTION 1

1 description, for which notice of arrears was given under par. (a) and for which arrears
2 remain unpaid, stating the amount of arrears and penalty. Each delinquent amount,
3 including the penalty, becomes a lien upon the lot or parcel of real estate to which the
4 utility service was furnished and payment for which is delinquent, and the clerk
5 shall insert the delinquent amount and penalty as a tax against the lot or parcel of
6 real estate.

7 (c) All proceedings in relation to the collection of general property taxes and to
8 the return and sale of property for delinquent taxes apply to the tax under par. (b)
9 if it is not paid within the time required by law for payment of taxes upon real estate.

10 (d) Under this subsection, if an arrearage is for utility service furnished and
11 metered by the utility directly to a manufactured home or mobile home unit in a
12 licensed manufactured and mobile home community, the notice shall be given to the
13 owner of the manufactured home or mobile home unit and the delinquent amount
14 becomes a lien on the manufactured home or mobile home unit rather than a lien on
15 the parcel of real estate on which the manufactured home or mobile home unit is
16 located. A lien on a manufactured home or mobile home unit may be enforced using
17 the procedures under s. 779.48 (2).

18 (e) This subsection does not apply to arrearages collected using the procedure
19 under s. 66.0627.

20 (f) In this subsection, “metered” means the use of any method to ascertain the
21 amount of service used or the use of a flat rate billing method.

22 **SECTION 2.** 66.0809 (3m) of the statutes is created to read:

23 **66.0809 (3m)** (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is
24 given, on the date the notice of arrears is given, the officer or department shall certify
25 and file with the clerk of courts a list of tenants of rental dwelling units responsible

assets

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for arrears. The municipality has a lien upon the property of each tenant listed under this paragraph in the amount of the arrears for which the tenant is responsible.

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(b) If par. (a) applies and the owner of the rental dwelling unit has paid the municipality the amount provided in the notice of arrears given under sub. (3) (a) or the amount placed as tax against the real estate under sub. (3) (b), the municipality shall transfer the lien under par. (a) to the owner.

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Insert 5-6 bjk

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SECTION 3. 66.0809 (5) (b) (intro.) and 2. of the statutes are consolidated, renumbered 66.0809 (5) (b) and amended to read:

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66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use sub. (3) to collect arrearages incurred after the owner of a rental dwelling unit has provided the utility with written notice under par. (a) ~~only if the municipality complies with at least one of the following:~~ 2. ~~In order to comply with this subdivision, if a customer who is a tenant has charges for water or electric service provided by the utility that are past due, the municipal public utility shall serve~~ serve notice of the past-due charges on the owner of the rental dwelling unit within 14 days of the date on which the tenant's charges became past due. The municipal public utility shall serve notice in the manner provided in s. 801.14 (2).

INSERT 5-6 EVM

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SECTION 4. 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and amended to read:

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66.0809 (5) (am) ~~In order to comply with this subdivision, a~~ A municipal public utility shall send bills for water or electric service to a customer who is a tenant in the tenant's own name. ~~Each time that a municipal public utility notifies a customer who is a tenant that charges for water or electric service provided by the utility to the customer are past due for more than one billing cycle, the utility shall also serve a copy of the notice on the owner of the rental dwelling unit in the manner provided~~

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SECTION 4

1 ~~in s. 801.14 (2).~~ If a customer who is a tenant vacates his or her rental dwelling unit,
 2 and the owner of the rental dwelling unit provides the municipal public utility, no
 3 later than 21 days after the date on which the tenant vacates the rental dwelling
 4 unit, with a written notice that contains a forwarding address for the tenant and the
 5 date that the tenant vacated the rental dwelling unit, the utility shall continue to
 6 send past-due notices to the customer at his or her forwarding address until the
 7 past-due charges are paid or until notice has been provided under sub. (3) (a).

SECTION 5. 66.0809 (5) (bm) of the statutes is created to read:

9 66.0809 (5) (bm) 1. No earlier than 14 days after receiving a notice under sub.
 10 (5) (b) of a tenant's past-due charges for electric service, the owner of a rental unit
 11 may request that the municipal public utility terminate electric service to the rental
 12 dwelling unit.

13 2. Upon receipt of a request under subd. 1., the municipal public utility shall
 14 serve notice on the tenant that unless all past-due charges are paid within 10 days,
 15 electric service to the rental dwelling unit will be terminated. The municipal public
 16 utility shall serve notice in the manner provided in s. 801.14 (2).

17 3. Except as provided under rules of the public service commission prohibiting
 18 disconnections during certain periods and subject to the procedural requirements
 19 under those rules, unless all past-due charges are paid, the municipal utility shall
 20 terminate electric service to the rental dwelling unit within 14 days after serving the
 21 notice under subd. 2.

SECTION 6. 66.0809 (5) (c) of the statutes is amended to read:

22 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
 23 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
 24 notice by U.S. mail

receiving the notice
 or if the person ^{receiving the notice} ~~has~~ ^{consented} to receive notice
 in an electronic format, by providing evidence of
 having sent the notice in an electronic format

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1 **SECTION 7.** 66.0809 (5) (d) of the statutes is amended to read:

2 66.0809 (5) (d) If this subsection applies and a municipal public utility is
3 permitted to collect arrearages under sub. (3), the municipal public utility shall
4 provide all notices under sub. (3) to the tenant and to the owner of the property or
5 a person designated by the owner.

6 **SECTION 8.** 66.0809 (7) of the statutes is created to read:

7 66.0809 (7) A municipal utility may require a prospective customer to submit
8 an application for water or electric service.

9 **SECTION 9.** 66.0809 (8) of the statutes is created to read:

10 66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental
11 dwelling unit, upon the owner's request, whether a new tenant has outstanding
12 past-due charges for utility service to that municipal public utility in that tenant's
13 name at a different address.

14 (b) A municipal public utility shall refuse to establish electric utility service to
15 a rental dwelling unit leased by a tenant unless any outstanding past-due charges
16 for utility service in the tenant's name to that municipal public utility are paid.

17 **SECTION 10.** 66.0809 (9) of the statutes is created to read:

18 66.0809 (9) A municipal utility is not required to offer a customer who is a
19 tenant at a rental dwelling unit a deferred payment agreement.

20 **SECTION 11.** 66.0809 (10) of the statutes is created to read:

21 66.0809 (10) A municipal utility may adopt application, deposit, disconnection,
22 or collection rules and practices that distinguish between customers based upon
23 whether the customer owns or leases the property that is receiving utility service
24 where the possibility exists for any unpaid bills of a tenant to become a lien on the
25 property that is receiving utility service.

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SECTION 12. 71.93 (3) (a) 6. of the statutes, as created by 2013 Wisconsin Act 20, is amended to read:

71.93 (3) (a) 6. Debt certified under s. 71.935 (2) (a) and then s. 71.935 (2) (b).

SECTION 13. 71.935 (1) (a) of the statutes is renumbered 71.935 (1) (a) (intro.) and amended to read:

71.935 (1) (a) (intro.) "Debt" means ~~a~~ the following:

1. A parking citation of at least \$20 that is unpaid and for which there has been no court appearance by the date specified in the citation or, if no date is specified, that is unpaid for at least 28 days; an unpaid fine, fee, restitution or forfeiture of at least \$20; and any other debt that is at least \$20, including debt related to property taxes, if the debt has been reduced to a judgment or the municipality or county to which the debt is owed has provided the debtor reasonable notice and an opportunity to be heard with regard to the debt.

SECTION 14. 71.935 (1) (a) 2. of the statutes is created to read:

71.935 (1) (a) 2. A lien under s. 66.0809 (3m).

SECTION 15. 71.935 (1) (b) of the statutes is amended to read:

71.935 (1) (b) "Debtor" means a person who owes a debt to a municipality or county or to the owner of a rental dwelling unit for arrears, as described under s. 66.0809 (3m).

SECTION 16. 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

SECTION 17. 71.935 (2) (b) of the statutes is created to read:

71.935 (2) (b) If a municipality or property owner has a lien against a tenant under s. 66.0809 (3m), the municipality ^{shall,} or property owner may ^{certify} that debt to the department so that the department may set off the debt against any refund owed to the tenant. The municipality shall certify the debt to the department as provided

1 in par. (a). The property owner shall certify the debt to the department in the manner
2 prescribed by the department.

3 **SECTION 18.** 71.935 (3) (a) of the statutes is amended to read:

4 71.935 (3) (a) If the debt remains uncollected and, in the case of a parking
5 citation, if the debtor has not contested the citation within 20 days after the notice
6 under sub. (2), the department shall set off the debt against any refund that is owed
7 to the debtor after the setoff under s. 71.93. Any legal action contesting a setoff shall
8 be brought against the municipality ~~or~~, county, or property owner that certified the
9 debt under sub. (2).

10 **SECTION 19.** 71.935 (3) (b) of the statutes is amended to read:

11 71.935 (3) (b) The department shall provide the information obtained under
12 sub. (2) to the department of administration. Before reducing any disbursement as
13 provided under this paragraph, the department of administration shall contact the
14 department to verify whether a certified debt that is the basis of the reduction has
15 been collected by other means and, in the case of a parking citation, whether the
16 debtor has contested the citation within 20 days after the notice under sub. (2). If
17 the certified debt remains uncollected and, in the case of a parking citation, the
18 citation has not been contested within 20 days after the notice under sub. (2), the
19 department of administration shall, after any reduction under s. 71.93, reduce the
20 disbursement by the amount of the debtor's certified debt under sub. (2), notify the
21 department of such reduction and disbursement, and remit the amount of the
22 reduction to the department in the manner prescribed by the department. If more
23 than one debt certified under sub. (2) exists for any debtor, the disbursement shall
24 be reduced first by the earliest debt certified. Any legal action contesting a reduction

Amend
10-3 JK
10-7

under this paragraph shall be brought against the municipality ~~or~~, county, or property owner that certified the debt under sub. (2).

SECTION 20. 71.935 (4) of the statutes is amended to read:

71.935 (4) Within 30 days after the end of each calendar quarter, the department shall settle with each municipality ~~and~~, county, and property owner for the amounts set off or reduced against certified debts for the municipality ~~or~~, county, or property owner during that calendar quarter.

SECTION 21. 196.37 (5) of the statutes is created to read:

196.37 (5) It is not unreasonable or unjustly discriminatory for a municipal public utility to adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer owns or leases the property that is receiving utility service where the possibility exists for any unpaid bills of a tenant to become a lien on the property that is receiving utility service.

SECTION 22. Initial applicability.

(1) The treatment of ~~section~~ 66.0809 (3) and (5) (b) (intro.), 1., and 2. of the statutes first applies to arrearages incurred on the effective date of this subsection.

(2) The treatment of section 66.0809 (3m) of the statutes first applies to a notice of arrears given on the effective date of this subsection.

(3) The treatment of section 66.0809 (8) (b) of the statutes first applies to a request for utility service made on the effective date of this subsection.

SECTION 23. Effective date.

(1) This act takes effect on the 1st day of the 6th month beginning after publication.

(END)

INSERT
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EVM

62.69(2)(e) to (g),
62.69(2)(e) to (g),

66.0821(2)(b) and
66.0821(2)(b) and
(1)(d) and
300.35(5)(d)2

INSERT 3-1 EVM

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1 SECTION 1. 62.69 (2) (e) to (g) of the statutes are repealed.

Insert 5 - 6 JK

2 (c) A municipality may not take a lien under par. (a) unless the municipality
3 has certified the amount of the arrears to the department of revenue for collection
4 and the department has been unable to collect the amount. For purposes of this
5 paragraph, methods for collecting unpaid taxes under s. 71.91, as they apply to
6 collecting unpaid income and franchise taxes, apply to collecting arrears certified
7 under this paragraph.

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INSERT 5-6 EVM

x

8 SECTION 2. 66.0809 (5) (ag) of the statutes is created to read:

9 66.0809 (5) (ag) The owner of a rental dwelling unit shall provide to each tenant
10 to whom this subsection applies a notice about the process for collecting arrears
11 under sub. (3m) and ss. 71.91 and 71.935 (2) (b), including the information provided
12 to the owner under s. 73.03 (72).

INSERT 8-1 EVM

x

13 SECTION 3. 66.0821 (2) (b) of the statutes is amended to read:

14 66.0821 (2) (b) The governing body of a municipality, and the officials in charge
15 of the management of the sewerage system as well as other officers of the
16 municipality, are governed in the discharge of their powers and duties under this
17 section by ss. 66.0809 to 66.0813 or ~~62.69 (2) (f)~~, to the extent consistent with this
18 section, or, in the case of a metropolitan sewerage district created under ss. 200.21
19 to 200.65, by ss. 200.55 and 200.59.

x

1 **SECTION 4.** 66.0821 (4) (d) of the statutes is amended to read:

2 66.0821 (4) (d) Sewerage service charges shall be collected and taxed and shall
3 be a lien upon the property served in the same manner as water rates are taxed and
4 collected under s. ~~62.69 (2) (f)~~ or 66.0809 to the extent applicable, except that charges
5 of a metropolitan sewerage district created under ss. 200.21 to 200.65 shall be
6 assessed and collected as provided in s. 200.55 (5).

History: 1971 c. 276; 1975 c. 414 s. 28; 1977 c. 29; 1981 c. 282, 314; 1983 a. 207; 1989 a. 322; 1991 a. 316; 1995 a. 27 s. 9126 (19); 1997 a. 53, 213; 1999 a. 32; 1999 a. 150 ss. 215 to 229, 242 to 249; Stats. 1999 s. 66.0821; 1999 a. 186 ss. 46, 47; 2001 a. 30; 2003 a. 321; 2005 a. 347; 2007 a. 20 s. 9121 (6) (a).

Insert 10 - 3 JK
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7 **SECTION 5.** 73.03 (72) of the statutes is created to read:

8 73.03 (72) To prepare and distribute to landlords information about the process
9 for collecting arrears under ss. 66.0809 (3m), 71.91, and 71.935 (2) (b) so that the
10 landlords may provide the information to tenants.

INSERT 10-14 EVM

✓

11 **SECTION 6.** 200.55 (5) (d) 2. of the statutes is amended to read:

12 200.55 (5) (d) 2. Any city, town, or village may collect and tax charges made by
13 it to users in the same manner as water rates are taxed and collected under s. ~~62.69~~
14 (2) (f) or 66.0809. Charges taxed under this subdivision are a lien upon the property
15 served, as provided in s. ~~62.69 (2) (f)~~ or 66.0809.

History: 1981 c. 282, 391; 1983 a. 27, 192; 1983 a. 207 ss. 35, 36, 93 (3), (8); 1983 a. 532 s. 36; 1985 a. 29 ss. 1209v to 1209wr, 3202 (56); 1989 a. 366; 1991 a. 39; 1999 a. 32; 1999 a. 150 s. 595; Stats. 1999 s. 200.55; 2001 a. 30.

Insert 5 - 6 JK

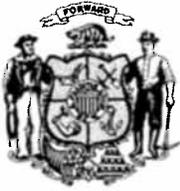
1 (c) A municipality may not take a lien under par. (a) unless the municipality
2 has certified the amount of the arrears to the department of revenue for collection
3 and the department has been unable to collect the amount. For purposes of this
4 paragraph, methods for collecting unpaid taxes under s. 71.91, as they apply to
5 collecting unpaid income and franchise taxes, apply to collecting arrears certified
6 under this paragraph.

Insert 10 - 3 JK

7 **SECTION 1.** 73.03 (72) of the statutes is created to read:
8 73.03 (72) To prepare and distribute to landlords information about the process
9 for collecting arrears under ss. 66.0809 (3m), 71.91, and 71.935 (2)(b) so that the
10 landlords may provide the information to tenants.

When the municipality certifies the arrears to the department for collection, it shall also notify the tenant of the certification.

INS-INS



P11
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

NOW

1-10-14

gen acct

1 **AN ACT to repeal** 62.69 (2) (e) to (g); **to renumber** 71.935 (2); **to renumber and**
2 **amend** 66.0809 (3), 66.0809 (5) (b) 1. and 71.935 (1) (a); **to consolidate,**
3 **renumber and amend** 66.0809 (5) (b) (intro.) and 2.; **to amend** 66.0809 (5) (c),
4 66.0809 (5) (d), 66.0821 (2) (b), 66.0821 (4) (d), 71.93 (3) (a) 6., 71.935 (1) (b),
5 71.935 (3) (a), 71.935 (3) (b), 71.935 (4) and 200.55 (5) (d) 2.; and **to create**
6 66.0809 (3m), 66.0809 (5) (ag), 66.0809 (5) (bm), 66.0809 (7), 66.0809 (8),
7 66.0809 (9), 66.0809 (10), 71.935 (1) (a) 2., 71.935 (2) (b), 73.03 (72) and 196.37
8 (5) of the statutes; **relating to:** collection of certain utility arrearages by a
9 municipal utility and the provision of municipal utility service to tenants.

Analysis by the Legislative Reference Bureau

Under current law, if a municipal utility provides utility service to a property and payment for the service is in arrears, the utility has a lien on the property and may have arrearages inserted as a tax on the property if the following procedure is followed. On October 15, the utility or county treasurer must provide the owner or occupant of the property with a written notice of payment due. The notice must specify the amount of the arrearage and any penalty and must state that: 1) if payment is not received by November 1, an additional penalty will be assessed; and

2) if payment is not received by November 15, the arrearage amount and any penalties will become a lien on the property that will be collected as a tax on the property. On November 16, the utility or treasurer must certify and file with the county clerk a list of all properties for which a notice of arrears was given and for which arrears remain unpaid. The delinquent amount then becomes a lien upon the property and the clerk must insert the delinquent amount and any penalties as a tax against the property.

This bill provides that, if the municipal utility uses the arrearage collection procedure for a rental dwelling unit and provides a notice of arrearage to the owner, the municipality has a lien on the property of a tenant who is responsible for the arrearage. The utility or treasurer must then certify and file with the clerk of courts a list of those tenants. Also under this bill, if the owner pays the arrearage, the municipality must transfer the lien to the owner.

Also under current law, if a municipal utility provides electric or water service to a rental dwelling unit and the owner of the rental property provides the utility with certain information, including the name and address of the tenant who is responsible for paying for utility service, the utility may use the arrearage collection procedure described above only if the utility follows certain additional procedures for notifying both the owner and the tenant about any payments that are past due.

This bill allows an owner of a rental unit to request that a municipal utility terminate electric service to a rental dwelling unit if the tenant's utility charges are past due and the tenant has received certain notices.

This bill also permits or requires certain actions of a municipal utility, including the following:

1) A municipal utility must refuse to establish electric utility service at a rental dwelling unit rented by a tenant if the tenant has outstanding past-due charges for utility service from the municipal utility, and must inform the owner of the rental unit of the past-due charges upon the owner's request.

2) A municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement.

3) A municipal utility may adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer is an owner or a lessee of the property receiving utility service where the possibility exists for unpaid bills of a tenant to become a lien.

Under current law, if any person owes a debt of at least \$20 to a county or municipality, and if the debt has been reduced to a judgment or the county or municipality has provided the debtor reasonable notice and an opportunity to be heard with regard to the debt, the county or municipality may certify the debt to the Department of Revenue (DOR) so that DOR may collect the debt by subtracting the debt amount from any tax refund owed to the debtor. Under current law, for purposes of certifying debt to DOR, a "municipality" means any city, village, or town, and includes any entity providing consolidated services among cities, villages, and towns.

Under the bill, if a municipality or owner of a rental dwelling unit has a lien against a tenant for unpaid utility services, the municipality or property owner may

(Prior to taking a lien, the municipality must try to collect the debt)

certify that debt to DOR so that DOR may collect the debt by subtracting the lien amount from any tax refund owed to the tenant. A municipality, however, may not take a lien for unpaid utility services unless the municipality has first certified the debt to DOR for collection by other means. Under the bill, DOR may use the same methods for collecting unpaid utility services as it uses for collecting unpaid taxes.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 62.69 (2) (e) to (g) of the statutes are repealed.

2 **SECTION 2.** 66.0809 (3) of the statutes is renumbered 66.0809 (3) (a) and
3 amended to read:

4 66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each year
5 notice shall be given to the owner or occupant of all the lots or parcels of real estate
6 to which utility service has been furnished prior to October 1 by a public utility
7 operated by a town, city, or village, including a public utility under s. 62.69, and
8 payment for which is owing and in arrears at the time of giving the notice. The
9 department in charge of the utility shall furnish the treasurer with a list of the lots
10 or parcels of real estate for which utility service charges are in arrears, and the notice
11 shall be given by the treasurer, unless the governing body of the city, village, or town
12 authorizes notice to be given directly by the department. The notice shall be in
13 writing and shall state the amount of arrears, including any penalty assessed
14 pursuant to the rules of the utility; that unless the amount is paid by November 1
15 a penalty of 10 percent of the amount of arrears will be added; and that unless the
16 arrears, with any added penalty, are paid by November 15, the arrears and penalty
17 will be levied as a tax against the lot or parcel of real estate to which utility service
18 was furnished and for which payment is delinquent. The notice may be served by

SECTION 2

1 delivery to either the owner or occupant personally, or by letter addressed to the
2 owner or occupant at the post-office address of the lot or parcel of real estate.

3 (b) On November 16, the officer or department issuing the notice shall certify
4 and file with the clerk a list of all lots or parcels of real estate, giving the legal
5 description, for which notice of arrears was given under par. (a) and for which arrears
6 remain unpaid, stating the amount of arrears and penalty. Each delinquent amount,
7 including the penalty, becomes a lien upon the lot or parcel of real estate to which the
8 utility service was furnished and payment for which is delinquent, and the clerk
9 shall insert the delinquent amount and penalty as a tax against the lot or parcel of
10 real estate.

11 (c) All proceedings in relation to the collection of general property taxes and to
12 the return and sale of property for delinquent taxes apply to the tax under par. (b)
13 if it is not paid within the time required by law for payment of taxes upon real estate.

14 (d) Under this subsection, if an arrearage is for utility service furnished and
15 metered by the utility directly to a manufactured home or mobile home unit in a
16 licensed manufactured and mobile home community, the notice shall be given to the
17 owner of the manufactured home or mobile home unit and the delinquent amount
18 becomes a lien on the manufactured home or mobile home unit rather than a lien on
19 the parcel of real estate on which the manufactured home or mobile home unit is
20 located. A lien on a manufactured home or mobile home unit may be enforced using
21 the procedures under s. 779.48 (2).

22 (e) This subsection does not apply to arrearages collected using the procedure
23 under s. 66.0627.

24 (f) In this subsection, “metered” means the use of any method to ascertain the
25 amount of service used or the use of a flat rate billing method.

Prior to taking

, and prior to October 15,

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SECTION 3. 66.0809 (3m) of the statutes is created to read:

66.0809 (3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is given, on the date the notice of arrears is given, the officer or department shall certify and file with the clerk of courts a list of tenants of rental dwelling units responsible for arrears. The municipality has a lien upon the assets of each tenant listed under this paragraph in the amount of the arrears for which the tenant is responsible.

(b) If par. (a) applies and the owner of the rental dwelling unit has paid the municipality the amount provided in the notice of arrears given under sub. (3) (a) or the amount placed as tax against the real estate under sub. (3) (b), the municipality shall transfer the lien under par. (a) to the owner.

(c) A municipality may not take a lien under par. (a) unless the municipality has certified the amount of the arrears to the department of revenue for collection and the department has been unable to collect the amount. For purposes of this

paragraph, methods for collecting unpaid taxes under s. 71.91, as they apply to collecting unpaid income and franchise taxes, apply to collecting arrears certified under this paragraph. When the municipality certifies the arrears to the department for collection, it shall also notify the tenant of the certification.

SECTION 4. 66.0809 (5) (ag) of the statutes is created to read:

66.0809 (5) (ag) The owner of a rental dwelling unit shall provide to each tenant to whom this subsection applies a notice about the process for collecting arrears under sub. (3m) and ss. 71.91 and 71.935 (2) (b), including the information provided to the owner under s. 73.03 (72).

SECTION 5. 66.0809 (5) (b) (intro.) and 2. of the statutes are consolidated, renumbered 66.0809 (5) (b) and amended to read:

under s. 71.91 or attempt to collect the amount by another method

shall certify

1 66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use
2 sub. (3) to collect arrearages incurred after the owner of a rental dwelling unit has
3 provided the utility with written notice under par. (a) ~~only if the municipality~~
4 ~~complies with at least one of the following:~~ ~~2. In order to comply with this~~
5 ~~subdivision, if a customer who is a tenant has charges for water or electric service~~
6 ~~provided by the utility that are past due, the municipal public utility shall serve~~
7 ~~notice of the past-due charges on the owner of the rental dwelling unit within~~
8 14 days of the date on which the tenant's charges became past due. The municipal
9 public utility shall serve notice in the manner provided in s. 801.14 (2).

10 **SECTION 6.** 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and
11 amended to read:

12 66.0809 (5) (am) ~~In order to comply with this subdivision, a~~ A municipal public
13 utility shall send bills for water or electric service to a customer who is a tenant in
14 the tenant's own name. ~~Each time that a municipal public utility notifies a customer~~
15 ~~who is a tenant that charges for water or electric service provided by the utility to~~
16 ~~the customer are past due for more than one billing cycle, the utility shall also serve~~
17 ~~a copy of the notice on the owner of the rental dwelling unit in the manner provided~~
18 ~~in s. 801.14 (2).~~ If a customer who is a tenant vacates his or her rental dwelling unit,
19 and the owner of the rental dwelling unit provides the municipal public utility, no
20 later than 21 days after the date on which the tenant vacates the rental dwelling
21 unit, with a written notice that contains a forwarding address for the tenant and the
22 date that the tenant vacated the rental dwelling unit, the utility shall continue to
23 send past-due notices to the customer at his or her forwarding address until the
24 past-due charges are paid or until notice has been provided under sub. (3) (a).

25 **SECTION 7.** 66.0809 (5) (bm) of the statutes is created to read:

1 66.0809 (5) (bm) 1. No earlier than 14 days after receiving a notice under sub.
2 (5) (b) of a tenant's past-due charges for electric service, the owner of a rental unit
3 may request that the municipal public utility terminate electric service to the rental
4 dwelling unit.

5 2. Upon receipt of a request under subd. 1., the municipal public utility shall
6 serve notice on the tenant that unless all past-due charges are paid within 10 days,
7 electric service to the rental dwelling unit will be terminated. The municipal public
8 utility shall serve notice in the manner provided in s. 801.14 (2).

9 3. Except as provided under rules of the public service commission prohibiting
10 disconnections during certain periods and subject to the procedural requirements
11 under those rules, unless all past-due charges are paid, the municipal utility shall
12 terminate electric service to the rental dwelling unit within 14 days after serving the
13 notice under subd. 2.

14 **SECTION 8.** 66.0809 (5) (c) of the statutes is amended to read:

15 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
16 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
17 notice by U.S. mail or, if the person receiving the notice has consented to receive
18 notice in an electronic format, by providing evidence of having sent the notice in an
19 electronic format.

20 **SECTION 9.** 66.0809 (5) (d) of the statutes is amended to read:

21 66.0809 (5) (d) If this subsection applies and a municipal public utility is
22 permitted to collect arrearages under sub. (3), the municipal public utility shall
23 provide all notices under sub. (3) to the tenant and to the owner of the property or
24 a person designated by the owner.

25 **SECTION 10.** 66.0809 (7) of the statutes is created to read:

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1 66.0809 (7) A municipal utility may require a prospective customer to submit
2 an application for water or electric service.

3 **SECTION 11.** 66.0809 (8) of the statutes is created to read:

4 66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental
5 dwelling unit, upon the owner's request, whether a new tenant has outstanding
6 past-due charges for utility service to that municipal public utility in that tenant's
7 name at a different address.

8 (b) A municipal public utility shall refuse to establish electric utility service to
9 a rental dwelling unit leased by a tenant unless any outstanding past-due charges
10 for utility service in the tenant's name to that municipal public utility are paid.

11 **SECTION 12.** 66.0809 (9) of the statutes is created to read:

12 66.0809 (9) A municipal utility is not required to offer a customer who is a
13 tenant at a rental dwelling unit a deferred payment agreement.

14 **SECTION 13.** 66.0809 (10) of the statutes is created to read:

15 66.0809 (10) A municipal utility may adopt application, deposit, disconnection,
16 or collection rules and practices that distinguish between customers based upon
17 whether the customer owns or leases the property that is receiving utility service
18 where the possibility exists for any unpaid bills of a tenant to become a lien on the
19 property that is receiving utility service.

20 **SECTION 14.** 66.0821 (2) (b) of the statutes is amended to read:

21 66.0821 (2) (b) The governing body of a municipality, and the officials in charge
22 of the management of the sewerage system as well as other officers of the
23 municipality, are governed in the discharge of their powers and duties under this
24 section by ss. 66.0809 to 66.0813 ~~or 62.69 (2) (f)~~, to the extent consistent with this

1 section, or, in the case of a metropolitan sewerage district created under ss. 200.21
2 to 200.65, by ss. 200.55 and 200.59.

3 **SECTION 15.** 66.0821 (4) (d) of the statutes is amended to read:

4 66.0821 (4) (d) Sewerage service charges shall be collected and taxed and shall
5 be a lien upon the property served in the same manner as water rates are taxed and
6 collected under s. ~~62.69 (2) (f)~~ or 66.0809 to the extent applicable, except that charges
7 of a metropolitan sewerage district created under ss. 200.21 to 200.65 shall be
8 assessed and collected as provided in s. 200.55 (5).

9 **SECTION 16.** 71.93 (3) (a) 6. of the statutes, as created by 2013 Wisconsin Act
10 20, is amended to read:

11 71.93 (3) (a) 6. Debt certified under s. 71.935 (2) (a) and then s. 71.935 (2) (b).

12 **SECTION 17.** 71.935 (1) (a) of the statutes is renumbered 71.935 (1) (a) (intro.)
13 and amended to read:

14 71.935 (1) (a) (intro.) “Debt” means ~~a~~ the following:

15 1. A parking citation of at least \$20 that is unpaid and for which there has been
16 no court appearance by the date specified in the citation or, if no date is specified, that
17 is unpaid for at least 28 days; an unpaid fine, fee, restitution or forfeiture of at least
18 \$20; and any other debt that is at least \$20, including debt related to property taxes,
19 if the debt has been reduced to a judgment or the municipality or county to which the
20 debt is owed has provided the debtor reasonable notice and an opportunity to be
21 heard with regard to the debt.

22 **SECTION 18.** 71.935 (1) (a) 2. of the statutes is created to read:

23 71.935 (1) (a) 2. A lien under s. 66.0809 (3m).

24 **SECTION 19.** 71.935 (1) (b) of the statutes is amended to read:

1 71.935 (1) (b) "Debtor" means a person who owes a debt to a municipality or
2 county or to the owner of a rental dwelling unit for arrears, as described under s.
3 66.0809 (3m).

4 **SECTION 20.** 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

5 **SECTION 21.** 71.935 (2) (b) of the statutes is created to read:

6 71.935 (2) (b) If a municipality or property owner has a lien against a tenant
7 under s. 66.0809 (3m), the municipality shall, or property owner may, certify that
8 debt to the department so that the department may set off the debt against any
9 refund owed to the tenant. The municipality shall certify the debt to the department
10 as provided in par. (a). The property owner shall certify the debt to the department
11 in the manner prescribed by the department.

12 **SECTION 22.** 71.935 (3) (a) of the statutes is amended to read:

13 71.935 (3) (a) If the debt remains uncollected and, in the case of a parking
14 citation, if the debtor has not contested the citation within 20 days after the notice
15 under sub. (2), the department shall set off the debt against any refund that is owed
16 to the debtor after the setoff under s. 71.93. Any legal action contesting a setoff shall
17 be brought against the municipality ~~or, county,~~ or property owner that certified the
18 debt under sub. (2).

19 **SECTION 23.** 71.935 (3) (b) of the statutes is amended to read:

20 71.935 (3) (b) The department shall provide the information obtained under
21 sub. (2) to the department of administration. Before reducing any disbursement as
22 provided under this paragraph, the department of administration shall contact the
23 department to verify whether a certified debt that is the basis of the reduction has
24 been collected by other means and, in the case of a parking citation, whether the
25 debtor has contested the citation within 20 days after the notice under sub. (2). If

1 the certified debt remains uncollected and, in the case of a parking citation, the
2 citation has not been contested within 20 days after the notice under sub. (2), the
3 department of administration shall, after any reduction under s. 71.93, reduce the
4 disbursement by the amount of the debtor's certified debt under sub. (2), notify the
5 department of such reduction and disbursement, and remit the amount of the
6 reduction to the department in the manner prescribed by the department. If more
7 than one debt certified under sub. (2) exists for any debtor, the disbursement shall
8 be reduced first by the earliest debt certified. Any legal action contesting a reduction
9 under this paragraph shall be brought against the municipality ~~or~~, county, or
10 property owner that certified the debt under sub. (2).

11 **SECTION 24.** 71.935 (4) of the statutes is amended to read:

12 71.935 (4) Within 30 days after the end of each calendar quarter, the
13 department shall settle with each municipality ~~and~~, county, and property owner for
14 the amounts set off or reduced against certified debts for the municipality ~~or~~, county,
15 or property owner during that calendar quarter.

16 **SECTION 25.** 73.03 (72) of the statutes is created to read:

17 73.03 (72) To prepare and distribute to landlords information about the process
18 for collecting arrears under ss. 66.0809 (3m), 71.91, and 71.935 (2) (b) so that the
19 landlords may provide the information to tenants.

20 **SECTION 26.** 196.37 (5) of the statutes is created to read:

21 196.37 (5) It is not unreasonable or unjustly discriminatory for a municipal
22 public utility to adopt application, deposit, disconnection, or collection rules and
23 practices that distinguish between customers based upon whether the customer
24 owns or leases the property that is receiving utility service where the possibility

1 exists for any unpaid bills of a tenant to become a lien on the property that is
2 receiving utility service.

3 **SECTION 27.** 200.55 (5) (d) 2. of the statutes is amended to read:

4 200.55 (5) (d) 2. Any city, town, or village may collect and tax charges made by
5 it to users in the same manner as water rates are taxed and collected under s. ~~62.69~~
6 ~~(2) (f) or~~ 66.0809. Charges taxed under this subdivision are a lien upon the property
7 served, as provided in s. ~~62.69 (2) (f) or~~ 66.0809.

8 **SECTION 28. Initial applicability.**

9 (1) The treatment of sections 62.69 (2) (e) to (g), 66.0809 (3) and (5) (b) (intro.),
10 1., and 2., 66.0821 (2) (b) and (4) (d), and 200.55 (5) (d) 2. of the statutes first applies
11 to arrearages incurred on the effective date of this subsection.

12 (2) The treatment of section 66.0809 (3m) of the statutes first applies to a notice
13 of arrears given on the effective date of this subsection.

14 (3) The treatment of section 66.0809 (8) (b) of the statutes first applies to a
15 request for utility service made on the effective date of this subsection.

16 **SECTION 29. Effective date.**

17 (1) This act takes effect on the 1st day of the 6th month beginning after
18 publication.

19 (END)